

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

STEVEN MATZA,

2:09-CV-217 JCM (CWH)

Plaintiff,

V.

COUNTRYWIDE HOME LOANS,  
INC., et al.,

## Defendants.

## ORDER

Presently before the court is defendants Countrywide Home Loans, Inc., et. al.'s motion to dismiss and expunge *lis pendens*. (Doc. #29). Plaintiff Steven Matza failed to file an opposition.

17 The property at issue in this case is located at 9948 Central Valley Ave., Las Vegas, Nevada.  
18 (Doc. #1). Plaintiff originally filed this case on February 3, 2009. (Doc. #1). The court dismissed  
19 the complaint on April 28, 2009. (Doc. #17). Plaintiff appealed the court's order to the Ninth  
20 Circuit. (Doc. #19).

21 On June 21, 2011, the Ninth Circuit reversed and remanded. (Doc. #24). The Ninth Circuit  
22 held that the court erroneously dismissed plaintiff's TILA claim on timeliness grounds. (Doc. #24).  
23 The Ninth Circuit further found that the court abused its discretion by dismissing the complaint  
24 without granting leave to amend. (Doc. #24). Thus, the Ninth Circuit instructed this court, on  
25 remand, to "give Matza an opportunity to amend the complaint, including an opportunity to state an  
26 alternative theory for recovery." (Doc. #24, internal citations and quotations omitted).

1 It has been six months since the Ninth Circuit issued its decision. Plaintiff still has not filed  
2 an amended complaint. Defendants now move to dismiss the complaint for failure to state a claim  
3 upon which relief can be granted. (Doc. #29). Defendants further assert that plaintiff's TILA claim  
4 can be dismissed for reasons other than timeliness. (Doc. #29).

5 Pursuant to Nevada Local Rule 7-2(d), “the failure of an opposing party to file points and  
6 authorities in response to any motion shall constitute a consent to the granting of the motion.”  
7 However, the court will not automatically grant every unopposed motion. In *Ghazali v. Moran*, 46  
8 F.3d 52, 53 (9th Cir. 1995), the Ninth Circuit held that the court had to weigh the following factors  
9 before dismissing the action: (1) the public’s interest in expeditious resolution of litigation; (2) the  
10 court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
11 favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions.

12 In light of both plaintiff's six-month delay in filing an amended complaint and plaintiff's  
13 failure to oppose defendant's motion to dismiss and expunge *lis pendens*, the court finds that the  
14 *Ghazali* factors weigh in favor of dismissing the action. *Ghazali*, 46 F.3d at 53; see also LR 7-2(d).

15 Accordingly,

16 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendants Countrywide  
17 Home Loans, Inc., et. al.'s motion to dismiss and expunge *lis pendens* (doc. #29) be, and the same  
18 hereby is, GRANTED.

19 DATED this 14<sup>th</sup> day of December, 2011.

James C. Mahan  
**UNITED STATES DISTRICT JUDGE**